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11 October 2000

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COMMISSION ON HUMAN RIGHTS
Fifth special session
17-18 October 2000

PROVISIONAL AGENDA

Note by the Secretary-General

1. Adoption of the agenda.

2. Organization of work.

3. Letter dated 3 October 2000 from the Permanent Representative of Algeria to the United Nations Office at Geneva addressed to the United Nations High Commissioner for Human Rights.

4. Report to the Economic and Social Council on the fifth special session.

GE.00-15461 (E)

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COMMISSION ON HUMAN RIGHTS
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ANNOTATIONS TO THE PROVISIONAL AGENDA

Prepared by the Secretary-General

1. The Economic and Social Council, in its resolution 1990/48 of 25 May 1990, authorized the Commission on Human Rights to meet exceptionally between its regular sessions, provided that a majority of States members of the Commission so agreed.

2. On 3 October 2000, the Permanent Representative of Algeria to the United Nations Office at Geneva addressed a letter to the High Commissioner for Human Rights requesting her to convene a special session of the Commission on Human Rights (see E/CN.4/S-5/2).

3. On 4 October 2000, pursuant to decision 1993/286 of 28 July 1993 of the Economic and Social Council, which established the procedure for convening special sessions of the Commission on Human Rights, the members of the Commission were requested to indicate their wishes in regard to this request, with a view to ascertaining whether the majority of the members agreed to the holding of a special session. By the prescribed deadline, the following members of the Commission on Human Rights have indicated agreement: Argentina, Bangladesh, Bhutan, Brazil, Burundi, Chile, China, Colombia, Congo, Cuba, Czech Republic, Ecuador, El Salvador, France, Germany, Guatemala, India, Indonesia, Italy, Japan, Latvia, Luxembourg, Madagascar, Mauritius, Mexico, Morocco, Nepal, Niger, Nigeria, Norway, Pakistan, Peru, Philippines, Poland, Portugal, Qatar, Republic of Korea, Rwanda, Senegal, Spain, Sri Lanka, Sudan, Swaziland, Tunisia, Venezuela and Zambia.

4. In the light of the agreement of the majority of its members, the Commission on Human Rights will be convened in its fifth special session on Tuesday, 17 October 2000, at 10.00 a.m. at the United Nations Office at Geneva in Conference Room XVII.

5. It will be recalled that at its fifty-sixth session the Commission elected the following officers, who will constitute the Bureau for the fifth special session:

Chairperson:	Mr. Shambhu Ram Simkhada (Nepal)
Vice-Chairpersons:	Mr. Ibrahim Mirghani Ibrahim (Sudan) Mr. Krzysztof Jakubowski (Poland) Mr. Víctor Rodríguez Cedeño (Venezuela)
Rapporteur:	Ms. Marie Gervais-Vidricaire (Canada)

Item 1. Adoption of the agenda

6. The Commission will have before it the provisional agenda (E/CN.4/S-5/1) prepared by the Secretary-General in accordance with rule 5 of the rules of procedure of the functional commissions of the Economic and Social Council, as well as the present annotations relating to the items included in the provisional agenda.

Item 2. Organization of work

7. In accordance with normal practice, the Commission will consider the organization of its work at its 1st meeting. It may be recalled that at its fourth special session, the Commission accepted the recommendation of its Bureau regarding the limitation of the frequency and duration of statements. Members of the Commission, and all observers were limited to one statement of 10 minutes. It was also agreed that, in the case of joint statements by States or non-governmental organizations, more time, within reasonable limits, would be given to the speakers. If, after a collective statement exceeding 10 minutes, some States wished to take the floor again, they would be given half the time normally accorded.

8. The Commission also accepted the recommendation that, with regard to rights of reply, a limitation of two replies, the first of five minutes and the second of three minutes, at the end of the day or at the end of the general debate on any particular item(s), would be observed.

9. The Commission followed the practice, established at its previous special sessions, whereby the requirement stipulated in rule 52 of the rules of procedure of the functional commissions of the Economic and Social Council that proposals and substantive amendments be discussed or put to the vote no earlier than 24 hours after copies had been circulated to all members was waived.

Composition of the Commission

10. The composition of the Commission for 2000 is the following (the term of membership of each State expires on 31 December of the year indicated in brackets): Argentina (2002), Bangladesh (2000), Bhutan (2000), Botswana (2000), Brazil (2002), Burundi (2002), Canada (2000), Chile (2000), China (2002), Colombia (2001), Congo (2000), Cuba (2000), Czech Republic (2002), Ecuador (2002), El Salvador (2000), France (2001), Germany (2002), Guatemala (2000), India (2000), Indonesia (2002), Italy (2002), Japan (2002), Latvia (2001), Liberia (2001), Luxembourg (2000), Madagascar (2001), Mauritius (2001), Mexico (2001), Morocco (2000), Nepal (2000), Niger (2001), Nigeria (2002), Norway (2001), Pakistan (2001), Peru (2000), Philippines (2000), Poland (2000), Portugal (2002), Qatar (2001), Republic of Korea (2001), Romania (2001), Russian Federation (2000), Rwanda (2000), Senegal (2000), Spain (2002), Sri Lanka (2000), Sudan (2000), Swaziland (2002), Tunisia (2000), United Kingdom of Great Britain and Northern Ireland (2000), United States of America (2001), Venezuela (2000), Zambia (2002)

Item 3. Letter dated 3 October 2000 from the Permanent Representative of Algeria to the United Nations Office at Geneva, addressed to the High Commissioner for Human Rights

11. This letter, on the basis of which the present session is convened, is circulated as document E/CN.4/S-5/2.

Item 4. Report to the Economic and Social Council on the fifth special session

12. Rule 37 of the rules of procedure of the functional commissions of the Economic and Social Council provides that the Commission shall submit to the Council a report, which shall normally not exceed 32 pages, on the work of each session, containing a concise summary of recommendations and a statement of issues requiring action by the Council. It shall, as far as practicable, frame its recommendations and resolutions in the form of drafts for approval by the Council.

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Letter dated 3 October 2000 from the Permanent Representative of Algeria to the United Nations Office at Geneva, addressed to the United Nations High Commissioner for Human Rights

On behalf of the Council of Arab Permanent Representatives, Members of the League of Arab States, I would like to inform you that in the light of the tragic events taking place in Palestine, the Council of Arab Permanent Representatives convened an urgent meeting on 3 October 2000 to discuss the grave and massive violations of the human rights of the Palestinian people by the Israeli occupying power.

In this regard, the Council of Arab Permanent Representatives authorized me, in accordance with Economic and Social Council resolution 1990/48 of 25 May 1990 and its decision 1993/286 of 28 July 1993, to request the convening of a special session of the Commission on Human Rights to discuss this matter.

(Signed) Mohamed Salah Dembri
Ambassador
Permanent Representative

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LETTER DATED 3 OCTOBER 2000 FROM THE PERMANENT REPRESENTATIVE OF ALGERIA TO THE UNITED NATIONS HIGH COMMISSIONER FOR HUMAN RIGHTS

Mission report on Israel's violations of human rights in the Palestinian territories occupied since 1967, submitted by Mr. Giorgio Giacomelli, Special Rapporteur

GE.00-15546 (E)

Introduction

1. In response to the recent developments and the acute situation in the occupied Palestinian territories, the Special Rapporteur undertook a mission to the region to ascertain the prevailing human rights conditions. The Commission's subsequent decision to convene the current special session provides the occasion for the Special Rapporteur to bring his findings to the Commission's attention as a reference for its deliberations.

2. The recent mission to the occupied Palestinian territories (OPT) from 11 to 15 October 2000, enabled the Special Rapporteur to consult with a wide range of interlocutors in connection with his mandate. This included meetings in the West Bank, the Gaza Strip and Jerusalem with Palestinian and Israeli NGOs, international organizations on the ground, grassroots and community organizations, human rights monitors, Palestinian Authority representatives, medical professionals and individuals wounded in the recent confrontations. He gathered oral testimony and documentary information, as well as published materials from additional sources. The Special Rapporteur notes with regret that again he was denied the opportunity to consult official Israeli interlocutors, owing to Israel's continuing rejection of the mandate and its refusal to cooperate with the Special Rapporteur.

3. In compliance with the mandate, as formulated by the Commission on Human Rights, this report addresses the subject of military occupation, and actions and omissions of the occupying Power during the unfolding events of late September 2000 until today, 17 October 2000.

4. While concentrating his attention on the terms of reference contained in the mandate, the Special Rapporteur feels he would be remiss in his obligation as a mechanism of the Commission on Human Rights if he were not to draw the attention of the Commission to the fact that, in the very area covered by the mandate and in areas geographically and substantively peripheral to it, other serious violations are being perpetrated. It would be for the Commission to decide how best to address these matters in the interest of faithfully and comprehensively upholding human rights norms.

5. In general, the full range of human rights violations reported in the Special Rapporteur's previous report, to the Commission at its fifty-sixth session (E/CN.4/2000/25), remain constant. However, a number of violations from that spectrum have shown a dramatic upsurge since late September 2000. The Special Rapporteur brings these particular areas to the Commission's attention. He expects to present his regular, comprehensive report to the Commission at its fifty-seventh session, in 2001.

The human rights framework

6. Under the Charter of the United Nations a State Member of the United Nations is obligated to "respect and promote human rights". Additionally, Israel was bound upon its establishment by the terms of General Assembly "partition of Palestine" resolution 181 (II), which states in Part I, chapter 2, paragraph 3: "All persons within the jurisdiction of the [Arab or Jewish] State shall be entitled to equal protection of the law". As the occupying Power in the West Bank, the Gaza Strip and Jerusalem, Israel bears de jure responsibility for implementing

the applicable humanitarian law norms. In the occupied Palestinian territories, Israel bears the responsibilities of the occupying Power, as the Commission on Human Rights recognized in its resolution 1993/2. As the treaty bodies have subsequently reaffirmed, these Israeli jurisdictional obligations remain applicable to date (see CERD/C/304/Add.45 and E/C.12/1/Add.27).

7. Therefore, international humanitarian law obligations apply to this review of Israel's role in the occupied Palestinian territories, including the Hague Regulations and the Geneva Conventions of 1949, in particular the Fourth Geneva Convention relative to the Protection of Civilian Persons in Time of War. In addition, as ratifying Party to the six principal human rights treaties, Israel's covenanted human rights obligations apply, as well as those arising from customary law and general principles of international law. The norms of both customary and treaty law, as well as the relevant resolutions of the United Nations form the legal framework for the concerns raised in this report.

8. It should be noted that the data collected here on specific violations are neither exhaustive nor reflect perfect uniformity among all sources. The Special Rapporteur has sought corroboration of the information in order to establish reasonable certainty of the facts presented to the Commission. Nonetheless, the Special Rapporteur's report here reflects the scale and proportions of the violations committed over the period under review.

Principal concerns regarding human rights

Right to life

9. The occupying Power has dramatically escalated the use of lethal force against the civilian population, ostensibly in response to demonstrations beginning in Jerusalem and spreading throughout the West Bank and Gaza Strip. Occupation forces appear to have indiscriminately used excessive force in cases where there was no imminent threat to their lives. Whether in cases of Israel Defence Forces (IDF) or Israeli police actions, deadly force is used without warning, and without employing deterrence or gradual measures consistent with the minimum standards and methods of crowd control or management of civil unrest. These fundamental human rights and humanitarian norms of necessity and proportionality have been breached in most reported cases of confrontation between Palestinian civilians and Israeli forces.

10. While the various sources consulted may differ to some degree on details, all concur that, since 28 September, Israeli forces have killed at least 85 Palestinians in the occupied Palestinian territories in this way, of whom more than 20 were children (under the age of 18), including small children, as well as two infants, 5 and 6 months old. Israeli settlers in the West Bank are responsible for at least five of these Palestinian deaths over the past 18 days. In some sense the scale of this violation is unprecedented. It is worthy of note that the number of deaths caused by Israeli forces so far approximate the number killed in the first four months of the intifada, in 1987/1988.

11. Depending on the criteria applied by the different sources with regard to the nature and gravity of wounds, various reports estimate between 2,000 and 3,700 Palestinians injured by Israeli occupation forces. Of these, some 40 per cent are under 18 years of age. The total injuries are roughly categorized as resulting from shooting to the head (40 per cent), the

chest (20 per cent), abdomen (20 per cent), extremities and back (20 per cent). Reportedly, at least half of the injuries resulted from Israeli forces using live ammunition, with the remaining injuries due to rubber-coated metal bullets and tear gas (around 10 per cent).

12. In different degrees, these casualties are widely distributed across the occupied Palestinian territories. Approximately, two thirds are found throughout the West Bank and Jerusalem, with the remaining third in the Gaza Strip.

13. Officially verifiable figures for the total number of Israeli casualties were not available. However, Israeli occupying forces, including settlers, to date have been reported to have suffered seven deaths.

Means of force used

14. The Israeli forces have used a variety of methods, including shooting with lethal weapons. In addition to using rubber-coated metal bullets, which at close range have proved lethal, troops have fired rifles and machine guns, deployed tanks, fired rockets and anti-tank missiles, and have employed and fired from helicopter gunships and naval vessels.

15. Many of the casualties are reportedly the result of long-distance shooting by snipers. The Special Rapporteur took eyewitness and victim testimony of the use of this tactic against civilians, some of whom were far from, and uninvolved in, civil demonstrations.

16. It is worth noting that the confrontations with and manoeuvre of IDF forces, in some cases, have disregarded the lines of territorial division agreed upon. This has created some confusion as to the role of the Palestinian civil police, who are meant both to maintain order and to protect the Palestinian population. This is a situation that remains of deep concern and should be the subject of careful study and remedial efforts.

17. Local observers have reported concern over the apparent re-emergence of IDF special undercover units to conduct operations similar to those carried out during the intifada (1987- ca. 1993). At present, the Israeli settler population has emerged as an increasingly obvious source of paramilitary activity, particularly, as local observers have noted, since this year's Paris summit. For instance, settlers have opened fire on local Palestinian neighbourhoods in Jerusalem and in West Bank villages, as noted in shooting incidents reported at Bidya and Za'tara village (near Nablus) and in neighbourhoods adjacent to Pesugot settlement (Jabal Tawil/al-Bireh), which resulted in injuries and one death. Numerous reports indicate that Israeli occupation forces have not acted to deter such paramilitary activities.

18. The situation has become more complex and multifaceted as some new actors, such as the paramilitary settlers, have entered the scene and some Palestinians bearing arms have appeared in the protests. These new factors, within a context of escalating violence, form a particularly alarming development that calls for urgent attention.

19. The emergence of particularly odious and brutal attacks, such as the death by torture of a young Palestinian from Imm Safa village (West Bank, Area C), or mob attacks, as in the case of the 12 October Ramallah killings, give ominous warning as to the new forms of violence that could spin out of control if not properly addressed and remedied.

Right to health

20. In addition to the obvious consequences for the right to health that arise from the use of lethal weapons against civilians, medical professionals have also become targets of IDF gunfire. Israeli forces have obstructed, beaten and/or shot a number of emergency medical personnel on duty. This has led to the denial of emergency medical aid to victims and to the wounding of medical personnel, as well as the death of one ambulance driver, Bassam Bilbaisi.

21. The level and number of casualties have strained local medical services beyond capacity, requiring the transfer of severely injured victims to hospitals in neighbouring countries. The casualties and the Israeli-imposed closure of the occupied Palestinian territories have created a shortage of medical supplies and strained the capacity of medical services. The impossibility of replenishing stocks and the denial of access to needed treatment in neighbouring countries due to closure of the occupied territories have deepened the medical-care crisis at a time of increased need.

Freedom of movement

22. While the right to freedom of movement has been the subject of violations on a sustained basis, particularly since the beginning of the interim period, Israel's current closure of the occupied territories is characterized also by the sealing off of Palestinian populated areas. This has prevented the free movement of people and material into and out of these areas, and has created shortages and a sense of isolation. The besieging of several Palestinian communities has resulted in further fragmentation of the territory and society as a whole and is having a negative impact on the already fragile Palestinian economy. Furthermore, such an acute situation already has consequences for access to education, medical care and livelihood, in addition to lowering morale and contributing to an overall sense of confinement.

23. The day before the Jewish holiday of Yom Kippur, the Israeli authorities closed the occupied Palestinian territories, after which they cancelled all permits for Palestinian workers, prohibiting them access to their jobs in Israel. Subsequently, the Israeli authorities cancelled grade 2 and 3 permits for Palestinians, denying freedom of movement to businessmen and other professionals.

Economic, social and cultural rights

24. Other economic losses include those resulting from the demolition of physical structures, including homes and apartments, as in the case of 40 apartments at Netzarim Junction, the damaging and burning of vehicles, including ambulances, and vandalism of homes. These acts have been carried out by both Israeli soldiers and settlers. Physical damage by the IDF ranges

from random gunfire at water tanks on the roofs of homes to the shelling of the municipality building at Beit Lahia, in the Gaza Strip and the shelling of the electrical plant in Ramallah, West Bank.

25. The massacre carried out in the Haram al-Sharif perhaps most dramatically exemplifies the violation of a religious site. Other sites that have been militarized, such as Joseph's Tomb, in Nablus, and Rachel's Tomb, in Bethlehem, have been the site of violent conflict, resulting in destruction and/or effective denial of the right to worship. Other incidents include the attempted burning of the church in Beit Hanina (Jerusalem) in a night raid by settlers last week and the vandalization of a synagogue at Jericho on 13 October. These incidents, beyond the violation of the right to religious expression, stand out as particularly offensive and pose the danger of exacerbating one of the most sensitive dimensions of the conflict.

Collective punishment

26. The closure and isolation of communities has been recognized as a type of collective punishment that contravenes the Fourth Geneva Convention, as does the demolition of homes and destruction of public property and facilities. Preventing workers from having access to their source of livelihood also stands as a violation of this humanitarian law principle. These acts not only result in the loss of livelihood arising from denial of the right to work, but also in the loss of public goods and services from the destruction of municipal facilities and public utilities, as noted above.

Vulnerable groups

27. In addition to those directly affected by the use of force, particular segments of the Palestinian population deserve special attention because of their vulnerability. Children in general constitute a particularly vulnerable category as they are the least equipped to cope with the psychological and other pressures of the situation and are thus often in particular need of medical attention. They may also suffer from trauma and unrest within the family. Women suffer disproportionately as a vulnerable social group and particularly as mothers coping with their role as guardians of the family and suppliers of their children's needs.

28. A category of people that have become especially vulnerable in the light of recent events are Palestinians living near settlements and in areas where the Palestinian Authority does not have a presence, such as small, isolated farmers and Bedouins. It is worth noting that, owing to their great number and the poor living conditions in the camps, Palestinian refugees are most affected by negative economic pressures and political unrest, and are central to any development of the situation.

Local perceptions

29. In general, respondents identified one of the main causes of the recent Palestinian protests as accumulated frustration at the perceived shortcomings of the Oslo process, both as to content and implementation, and notably its failure to uphold human rights and humanitarian norms. Both the local Palestinian and Israeli interlocutors consulted emphasized to the Special Rapporteur that none of the concerned parties could possibly not be cognizant of the

danger inherent in this failure: the people in the street, Israeli intelligence, the Commission on Human Rights, the various treaty bodies, the General Assembly, the Special Rapporteur, the Palestinian Authority. They lamented that, in spite of that, no corrective action had been taken.

30. Under the circumstances, all the local parties reiterated their disappointment at the international community's apparent lack of will to take substantive measures to uphold the rights of Palestinians. Moreover, they uniformly deplored the double standard that has applied to the occupied Palestinian territories of tolerating or facilitating the Israeli occupation authorities' unbroken pattern of violations. In particular, they point out the contradiction between the standards established by the United Nations and the simultaneous ineffectiveness of the United Nations in upholding its own principles. A number of common demands were forcefully put forward by practically all interlocutors for the following needed corrective action:

The de jure implementation of applicable humanitarian law and human rights standards, including the Fourth Geneva Convention of 1949 and the principal human rights treaties;

The prompt formation and dispatch of a commission of inquiry with competence to establish responsibility for violations committed by the occupying Power. A number of interlocutors recommended measures comparable to those taken in the case of East Timor;

Any peace agreement should be subject to the scrutiny and guarantee of a competent body empowered to review its consistency with human rights and humanitarian law, including United Nations resolutions on Palestine (for example, General Assembly resolution 194 (III) with respect to repatriation and compensation);

The International Committee of the Red Cross should urgently increase its presence as a measure of physical protection;

International observers and/or an interposition force should be established to ensure the physical protection of the population of the occupied territories;

The relevant thematic special rapporteurs should give special attention to the occupied Palestinian territories.

31. The grievances expressed were not devoid of a certain positive underpinning. Respondents also conveyed the hope that the losses arising from these tragic events would not have been incurred in vain. Rather they expressed the hope that a correct reading of the meaning of recent events would inspire the establishment of a fairer process capable of leading to a durable peace.

Conclusions and recommendations

32. Quite apart from any debate over the particular spark that ignited the unrest and confrontation, the Special Rapporteur remains convinced that the current conflict has its roots in accumulated grievances and resentment at the continuing violations of human rights and humanitarian norms under Israeli occupation.

33. The Special Rapporteur is particularly concerned that any progress at confidence building that had been made may be irretrievably lost, as augured by the rapid polarization that is taking place on both sides and at all levels of Palestinian and Israeli society. This signals the urgent need for the adoption of measures towards restoring confidence and rekindling hope in the peace process. One indispensable ingredient for achieving that is the establishment of a human rights framework.

34. As pointed out in the Special Rapporteur's previous report to the Commission, this prerequisite is the sine qua non of any meaningful and durable peace. In addition to their cogency, these norms, once genuinely accepted, would alone allow the sense of confidence and security that would make possible the acceptance of the indispensable and painful compromises necessary.

35. With this in mind, the Special Rapporteur offers the following recommendations for urgent action:

That the occupying Power immediately issue orders to all its forces, civilian or military, consistent with international humanitarian norms;

That those orders be rigorously implemented and that the appropriate training be provided when required;

That a permanent mechanism be established to ensure that the orders are followed and, when they are not, to determine accountability, assign punishment and redress violations;

That, to ensure the credibility of the peace process, an Ombudsman-type mechanism be established to process complaints, building on the experience of similar measures adopted in other conflict situations;

That an observer and/or guarantor body be established that, by its very presence and neutrality, would serve to build up a sense of security and confidence on both sides;

The Special Rapporteur supports the idea of establishing a mechanism for a speedy and objective inquiry into the ongoing crisis, the importance of which was stressed by the Security Council in its resolution 1322 (2000).

36. Adopting these measures would meet the most immediate needs and might afford all the parties a way out of the current impasse. However, they should not supplant the broader task that lies ahead, which involves relaunching a peace process that would include the appropriate human rights framework.

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LETTER DATED 3 OCTOBER 2000 FROM THE PERMANENT REPRESENTATIVE OF ALGERIA TO THE UNITED NATIONS OFFICE AT GENEVA, ADDRESSED TO THE UNITED NATIONS HIGH COMMISSIONER FOR HUMAN RIGHTS

Letter dated 19 October 2000 from the Permanent Representative of Israel to the United Nations Office at Geneva addressed to the United Nations High Commissioner for Human Rights

I am sending to you enclosed,* a copy of the official reply of the Israeli Foreign Minister to the report submitted by Mr. Giorgio Giacomelli, Special Rapporteur.

I would appreciate it if this response could be circulated as an official document of the Commission on Human Rights.

(Signed) Yaakov LEVY
Ambassador
Permanent Representative

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* The annex is reproduced in the language of submission only.

Annex

Israel's response to the report submitted by the Special Rapporteur, Mr. Giacomelli (E/CN.4/S-5/3), pursuant to Commission on Human Rights resolution 1993/2 A

General comments

1. Israel views the report submitted pursuant to resolution 1993/2 A (E/CN.4/S-5/3) with serious concern, both in view of its substantive content and the hostile and one-sided tone in which it is written. One may also question the political wisdom in conducting such a mission, from 11 to 15 October 2000, at the height of the crisis, when the Secretary-General of the United Nations was himself in the region, at the same time, conducting a vital mission to bring about a resolution of the crisis. The Secretary-General's efforts finally resulted in a summit at Sharem-el-Sheikh on 16 October 2000. Clearly, the Rapporteur's one-sided and untimely initiative can only be perceived as undermining the United Nations Secretary-General's delicate mission.

2. The mission undertaken by the Special Rapporteur to the region, on his own initiative, and his subsequent report illustrate once again the significant flaws of his mandate, which is one-sided, wholly biased and entirely outdated.

3. It highlights the prejudicial manner under which this Special Rapporteur functions, predetermining the outcome of his investigation, resolving ab initio that Israel is in violation of international law. Contrary to all other "geographical" rapporteurs who are appointed by the Commission on an annual basis, this Rapporteur has been assigned an open-ended mandate that is never subject to scrutiny, critique or modification. It is intrinsically obsolete and overlooks the changes in circumstances and the changing realities in the area.

The report

4. In what can clearly be described as nothing but a purely political exercise, the report constitutes a series of unsubstantiated allegations against Israel. It makes no attempt to distinguish between fact and opinion. It is rife with one-sided political assertions and value judgements and frequently prejudges issues presently under ongoing and direct negotiations between Israel and the Palestinians. Similarly, the conclusions and recommendations of the report were a predictable result of this exercise.

5. Those aspects that might have given a more balanced picture were conveniently ignored or otherwise curtailed, with no explicit reference to the source of the "serious violations" admitted by the Special Rapporteur as made, apart from Israel. The author of the report, who interpreted his task so widely in other areas, apparently felt that reference to such matters was beyond its scope.

6. If the author of the report considered himself authorized to give an assessment of the escalating violence in the territories and to lay blame, he should logically have given some

attention to the continued Palestinian violations of written commitments, particularly in the field of fighting terrorism and preventing incitement, violations that have continued unabated throughout the period under review in the report.

7. Members of the United Nations and the Commission on Human Rights should not delude themselves that a report of this nature can play any constructive role whatsoever.

8. Sadly, the report, and through it the Commission on Human Rights, repeatedly demonstrate a damaging tendency to bypass the process of direct negotiations with a view to influencing the negotiations and exerting pressure on Israel.

9. A few examples will suffice:

Sources of information

10. The report claims to be based on reliable sources. However, these sources are never identified. This raises the presumption that the sources are political. Thus, in the guise of citing unidentified sources, the Special Rapporteur makes a number of political assertions which are not only far from the task assigned by his mandate, but undermine any claim the report may lay to objectivity.

Scope of the report

11. The substantive part of the report provides an unquestioning platform for partisan political views. The report makes no attempt to distinguish between fact and opinion and is rife with value judgements and political insinuation. Sadly, the result tells the reader far more about the political bias of the author of the report than about the issues it was asked to cover.

12. In one of his many value judgements the Special Rapporteur states, without any legal basis, that "Israel was bound upon its establishment by the terms of the 'partition of Palestine'" resolution, General Assembly resolution 181 (II). The Special Rapporteur perhaps was unaware that this resolution as with all General Assembly resolutions is, by definition, not legally binding in terms of international law, and its continued relevance, after more than 50 years, is questionable.

13. Similarly, the Special Rapporteur seems to have forgotten that pursuant to the Oslo accords and the consequent undertakings, about 99 per cent of the Palestinian population in the West Bank and all residents of the Gaza Strip are living under autonomous Palestinian administration, and are not under the effective control and jurisdiction of Israel.

The right to life

14. In yet another unfounded and judgemental assertion, the Special Rapporteur charges Israel with using excessive force against so-called "civil demonstrators" in the territories. This, however, is clearly a misconceived and unfounded depiction of reality. In fact, the utmost

restraint exemplifies the conduct, in conformity with international standards and far beyond, of the Israeli forces throughout these incidents. Israeli security personnel returned fire only when absolutely necessary and when faced with an imminent threat to life.

15. Furthermore, the Israeli Government, demonstrating the utmost responsibility, targeted only specific snipers and firing positions, thereby minimizing damage and injury. Contrary to the fallacious allegations made in the report, specific warnings and due notice were given in advance to the Palestinian Authority before firing at specific targets.

16. Throughout the last weeks, hundreds of violent incidents and riots have been initiated daily in the West Bank and the Gaza Strip by extremist Palestinians, both civilians, members of the Palestinian Police and members of illegal paramilitary units. In particular, we have witnessed unprecedented Palestinian attacks and use of violence and weapons against Israelis residing in the areas, as well as against Jewish holy sites and property. Terrorist activities have been daily perpetrated by gathering Palestinian mobs, roadside bombs have been set off near Israeli homes and shots are being fired directly into private homes. The Special Rapporteur seems, strangely, to have overlooked the lynching of two Israelis who were brutally tortured and slaughtered by a Palestinian mob inside a Palestinian police station, orchestrated with the overall support of the Palestinian Police.

17. In this respect, the report makes yet another cursory reference to the role of the Israeli settler population, describing them as an "increasingly obvious source of paramilitary activity". This description also suffers from extreme manipulation and selectivity, especially when it is evident to all that the main elements inciting and carrying out the acts of violence are the paramilitary Palestinian groups, the Tanzim, and other gathering mobs.

18. Despite extreme situations which clearly permit the Israeli forces to ease enforcement of the rules of engagement, these rules nonetheless remained unchanged, similar to the rules of engagement applied by the Israeli police. The use of live ammunition by Israeli forces is authorized as a means of self-defence only where there is an imminent threat to life or threat of serious injury, that is, in reaction to Palestinian attacks with live ammunition. Any other authorization to use live arms requires direct approval by the most senior officers of the Israel Defence Forces.

19. It is clear that these violent incidents have been supported and encouraged by the Palestinian leadership in blatant violation of written commitments and at a time when the peace process was at an advanced and crucial stage. The fact that the Palestinian Authority and its leadership have chosen to resort to violence as a means to pressure Israel into concessions at the negotiating table is all the more to be regretted and condemned.

20. Moreover, particularly troubling is the use of young Palestinian children as human shields during the riots against Israeli forces, in contradiction of basic international norms and standards. Though there would be no way for the reader of the report to know this, the report fails to mention this aspect when referring to the killings of young children. While the Government of Israel deeply regrets the recent events and the loss of life, both of Palestinians and Israelis, the implication that it has been irresponsible in this respect can only be considered as blatantly misleading.

21. The Palestinian leadership has deliberately and cynically encouraged the tragic involvement of children in the riots, sending them to accompany the Palestinian fighters and terror mobs, so that the children will be seen to be killed and wounded, with all the concomitant media attention and world sympathy.

Other issues addressed in the report

22. The reference by the Special Rapporteur to Joseph's Tomb is disingenuous, to say the least, and an affront to basic intelligence. In the 1995 Israeli-Palestinian Interim Agreement on the West Bank and the Gaza Strip, the Government of Israel and the PLO agreed that Jewish holy sites in the areas under the administration of the Palestinian Authority would be duly respected and protected, with Israeli presence at the site.

23. During the course of violence, incitement and rioting in the West Bank, this site became the target of gunfire and violent attacks, both by mobs of Palestinian civilians and by armed militia and members of the Palestinian police, in stark and blatant violation of all agreements with Israel. This even led to the death of an Israeli police officer on duty within the site, after Palestinian officials refused to allow his safe evacuation after having been severely wounded by Palestinian gunfire.

24. With a view to reducing tension, an arrangement was reached on 6 October 2000 between the Israeli Defence Forces and the Palestinian police, whereby the Israeli personnel on duty at the Tomb would be removed from the site, as a temporary measure, and the Palestinian Authority would ensure its continued protection and preservation.

25. The Palestinian side violated this arrangement. Upon the removal of the Israeli personnel, frenzied Palestinians, together with members of the Palestinian police, entered the site, set it ablaze, sacked it, violated it and commenced dismantling the historic and sacred structure of the Tomb. This was sacrilege.

26. Needless to say, and despite the fact that the above facts were circulated in a United Nations document, this was not reflected in his report by the Special Rapporteur, who cynically chose to blame Israel for aggravating the situation by "militarizing" that site.

27. The report raises general allegations regarding security abuses. The unsubstantiated nature of these allegations defies a detailed response. However, one can only wonder at the irresponsible approach which guided the author of the report to make such allegations without considering that there was any need to make reference to the intense incitement, violence and terrorist attacks that give rise to the necessity for such preventive or deterrent measures on the part of Israel.

28. Thus, it is seen fit in the report to raise charges against Israel for imposing curfews and closures but not to mention the inseparable fact that terrorist attacks since the start of these riots have been directed against Israelis, many of them civilians. Nor was it seen fit in the report to even consider the agonizing dilemma facing the State of Israel in balancing its duty to protect the lives of its inhabitants from terrorist attacks and its obligation to respect basic human rights.

Only when reliable information indicating an imminent terrorist attack is received, or immediately following a terrorist attack, or on particularly sensitive dates when the likelihood of attacks increases, does it become necessary to restrict the movement of Palestinians into Israel.

29. Such restrictions have been sparingly used during the recent riots, and are primarily intended to restore public safety within Israel and prevent further terrorist riots.

Conclusion

30. The biased and selective nature of the report indicates very clearly that the Special Rapporteur made no effort whatsoever to tackle the complexities of the issues, but nonetheless found no difficulty in passing his own politically biased value judgements on the events.

31. He has not hesitated to present uncorroborated reports of fact and partisan political views without question or criticism. In a deeply troubling display of irresponsibility he blames Israel for incidents initiated against it, thus absolving the Palestinian side from any responsibility.

32. Far from contributing in any way to a resumption of peaceful negotiations, the report conveys a clear message to the Palestinian side that the United Nations is a convenient and willing forum for bypassing the peace process.

33. Sadly, this report is inconsistent with the concept of bona fides, or of what one would expect of a special rapporteur within the United Nations system.

34. Those actively involved in escalating violence and trying to undermine the peace process will doubtless draw considerable encouragement from that document. But those who hold out hope for peaceful resolution of differences through negotiation can only be seriously disappointed.